

UNITED STATES DISTRICT COURT

ORIGINAL

NORTHERN

DISTRICT OF

NEW YORK

U.S. DISTRICT COURT

N.D. OF N.Y.

FILED

UNITED STATES OF AMERICA

CRIMINAL COMPLAINT

AUG 01 2008

v.

JAMES SPEARS,

LAWRENCE K. BAERMAN, CLERK
ALBANY

Defendant.


CASE NUMBER: 1:08 mj 322 (DRH)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about May 31, 2008, in Albany County, in the State and Northern District of New York the above-named defendant did,

by force, violence and intimidation, take from the person and presence of another, money, that is, approximately \$2,845.00 in United States currency, belonging to and in the care, custody, control, management, and possession of the Berkshire Bank of Guilderland, NY, which is a bank whose deposits were then insured by the Federal Deposit Insurance Corporation,

in violation of Title 18 United States Code, Section 2113(a). I further state that I am a Special Agent and that this complaint is based on the following facts:

Continued on the attached and made a part hereof. X Yes No


Signature of Complainant

Charles Kessler

Federal Bureau of Investigation

Sworn to before me, and subscribed in my presence,

August 1, 2008 at
Date

Albany, New York
City and State

Hon. David R. Homer

United States Magistrate Judge - N.D.N.Y.

Name and Title of Judicial Officer


Signature of Judicial Officer

AFFIDAVIT OF CHARLES KESSLER

I, Charles Kessler, hereby swear and affirm as follows:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed for approximately ten (10) years. As part of our duties, we investigate federal violations including Bank Robbery. I am an "investigative or law enforcement officer of the United States" within meaning of Title 18, United States Code (USC), Section 2510 (7), and empowered by law to conduct investigations and make arrests of offenses enumerated in Title 18 U.S.C. Section 2516.

2. This affidavit is submitted in support of an application for a complaint and arrest warrant for JAMES SPEARS, previously of 219 Vermont View Drive, Watervilet, NY 12189; dob: 10/31/1959. SPEARS is presently on federal supervised release for a previous bank robbery conviction, United States v. James Spears, 00-CR-525 (LEK), on or about May 1, 2001 upon which he was sentenced to 90 months imprisonment to be followed by 3 years Supervised Release. In regards to SPEARS' alleged recent criminal activity, he has been charged in Albany County by felony complaint with Robbery Third Degree for his alleged robbery of the Berkshire Bank in Guilderland on May 31, 2008 in which approximately \$2,845.00 was stolen. He also has been charged by felony complaint in Rensselaer County for his alleged commission of the March 25, 2008 bank robbery of the Key Bank at 720 Hoosick Road in Brunswick, NY in which approximately \$10,228.00 was stolen, and for his alleged commission of the April 11, 2008 bank robbery of the same bank in which approximately \$4,178.00 was stolen. Based on these recent arrests on state charges, United States Probation Officer Michael Patnaude has filed a Violation of Supervised Release Petition and an arrest warrant has been issued in conjunction therewith.

3. I am familiar with the facts of this case as set forth herein based on my conversations with FBI SA Tom Sonderoth and also my review of police reports of the Guilderland Police Department involved in the investigation of this case.

4. On May 31, 2008, at approximately 9:24 am, there was a bank robbery of the Berkshire Bank at 1704 Western Avenue, in Guilderland, NY. Approximately \$2,787.00 in U.S. currency was stolen.

5. The suspect that had committed the robbery was described by two bank employees as a white male, approximately 40-50 years of age, wearing a blue baseball cap, a dark colored shirt with an emblem on the upper left front corner, and blue jeans. The witnesses also indicated that the suspect exited the parking lot in a black convertible BMW going eastbound on Western Avenue. One of the tellers had described the suspect as having walked into the bank, holding a white piece of paper in his hand which he did not display and that he said, "Give me all your money, I want large, give me all your large. I'm not kidding, hurry up." The teller also described the suspect as stinking of cigarettes.

6. As police responded to the vicinity of the reported robbery, officers with the Colonie Police Department observed a black convertible BMW. The vehicle did not stop and a vehicle pursuit ensued.

7. The vehicle, which was a 2005 BMW convertible, black in color, NY LG 12845, Vin # WBABW53435PL52438, ultimately stopped at the front entrance of the Stratton VA Medical Center at 113 Holland Avenue in Albany, NY. As officers continued to pursue, the lone occupant of the vehicle fled and ran into the hospital and was apprehended by officers on the back side of the hospital. As part of the subsequent police investigation it was learned that the vehicle the defendant had been driving was registered to his girlfriend. She subsequently provided a statement to police verifying her ownership of the car and that the defendant had driven off in the car earlier that morning. She also informed police that he had left her a voice mail message on her cell phone apologizing for and admitting that he committed a bank robbery and was in the midst of being chased by police. A copy of that recording was obtained by police

as evidence.

8. Inv. Charles Tanner with the Guilderland Police Department did personally view surveillance tapes of the bank robbery provided by Berkshire Bank which showed the suspect/perpetrator of the robbery as a white male, appearing to be 40-50 years of age, wearing a blue baseball cap, a dark colored shirt with emblem on the upper left front corner and blue jeans.

9. Inv. Tanner and the two bank employee witnesses responded to the Stratton VA Hospital, and all identified the suspect being detained as the person who had committed the robbery and who could be seen on the video surveillance tapes. The witnesses were also able to identify the vehicle as the vehicle the suspect had fled in.

10. In plain view in the vehicle on the front passenger seat was a blue baseball style hat and loose U.S. currency consistent with the type involved in the commission of the robbery. At the time of his arrest the suspect was found to have \$2,788.51 in his pocket. Subsequent to the suspect's arrest, police applied for, obtained, and executed a search warrant for the vehicle. Amongst other items located, there was 11 Marlboro cigarettes, 1 CVS receipt and 2 CVS shopping bags.

11. During the investigation police learned that the suspect subsequent to the robbery went to the CVS drugstore at Sand Creek and Wolf Road. Police responded to that location and observed and took into evidence surveillance videos where the robbery suspect was clearly observed purchasing various items and holding what appeared to be a large amount of cash in his hands.

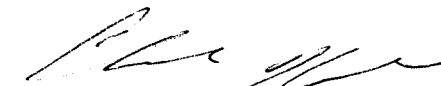
12. A cash audit done by the bank after-the-fact showed that \$2,845.00 was stolen.

13. The defendant was transported to police barracks, given his Miranda rights, did not request an attorney and indicated he was willing to answer questions, and provided a full verbal confession to committing this and two other bank robberies earlier in the spring in Brunswick, NY. He was interviewed by Guilderland Police Investigators Charles Tanner and John Guanay.

The entire interview was recorded and is in evidence.

14. The deposits of the Berkshire Bank are insured by the Federal Deposit Insurance Corporation (FDIC).

15. Based on the foregoing, I respectfully submit that the foregoing facts provide probable cause for a criminal complaint charging JAMES SPEARS with violation of Title 18 United States Code 2113(a) and issuance of an accompanying arrest warrant.



CHARLES KESSLER
Special Agent
Federal Bureau of Investigation

Sworn and subscribed
to before me this
1ST day of August, 2008.



HON. DAVID R. HOMER
UNITED STATES MAGISTRATE JUDGE